



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Redano	§	Group Art Unit:	3736
Serial No.:	10/827,454	§	Examiner:	N/A
Filed:	April 19, 2004	§	Docket:	REDA-110
Title:	Apparatus For Measuring Hemodynamic Parameters	§		

Commissioner for Patents
Washington, D.C. 20231

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

This Supplemental Information Disclosure Statement (“IDS”) is being filed before the mailing date of the first Office Action on the merits. 37 C.F.R. § 1.97(b)(3).

Identification Of Applications From Which This Application Claims Priority

This application is a continuation of application serial no. 10/134,356, filed April 27, 2002 and issued as U.S. Patent No. 6,814,702 (“the ‘702 Patent”), which is a continuation of application serial no. 09/732,274, filed December 7, 2000 and issued as U.S. Patent No. 6,428,478 (“the ‘478 Patent”), which is a divisional of application serial no. 09/315,867, filed May 20, 1999 and issued as U.S. Patent No. 6,221,021 (“the ‘021 Patent”), which is a continuation-in-part of application serial no. 08/926,209, filed September 9, 1997 and issued as U.S. Patent No. 5,947,901 (“the ‘901 Patent”).

Submission Of Order And Pleadings From Litigation Involving Related Patents

The ‘021 Patent is involved in pending litigation in the U.S. District Court for the Southern District of Texas (“the ‘021 Patent Litigation”). Submitted herewith is a Memorandum and Order entered by the Court in the ‘021 Patent Litigation on September 30, 2004 granting the plaintiff’s motion for summary judgment that the defendant had infringed the claims of the ‘021 Patent.

Submitted herewith is a pleading from the ‘021 Patent Litigation filed on November 22, 2004 and entitled “Original Answer And Counterclaims Of Defendant SonoSite, Inc. To Second Amended Complaint Of Plaintiff Neutrino Development Corporation” (“SonoSite’s Counterclaims”). SonoSite’s Counterclaims contain affirmative defenses and counterclaims that

claims of the ‘021 Patent are invalid and/or unenforceable (see paragraphs 21-43 and 70-73). SonoSite’s Counterclaims allege that:

Each of the Asserted Claims of the ‘021 Patent is invalid for failure to comply with the conditions and requirement for patentability set forth in Part II of Title 35 of the United States Code, including, *inter alia*, §§ 101, 102, 103, 112, and 132, particularly in view of the prior art, and the manner in which the ‘021 Patent was filed, prosecuted, and/or examined in the U.S. Patent Office.

(see paragraph 71 of SonoSite’s Counterclaims).

Also submitted herewith is a pleading from the ‘021 Patent Litigation filed on January 18, 2005 and entitled “Defendant’s Request For Reconsideration Of The Court’s Order Of September 30, 2004, On Infringement” (“SonoSite’s Request For Reconsideration”). On page 20, SonoSite’s Request For Reconsideration asks the Court to (1) vacate its September 30, 2004 Order granting summary judgment of infringement (submitted herewith and identified above); (2) reconsider and deny Neutrino’s motion for summary judgment on patent infringement; and (3) reconsider the claim construction in the August 20, 2003 Markman Order (a copy of which was submitted to the Patent Office by Applicant with the IDS mailed on December 22, 2004). SonoSite’s Request For Reconsideration also alleges that the claims of the ‘021 Patent fail to comply with 35 U.S.C. §§ 112, and 132.

The ‘702 Patent is involved in pending litigation in the U.S. District Court for the Southern District of Texas (“the ‘702 Patent Litigation”) Submitted herewith is a pleading from the ‘702 Patent Litigation filed on December 2, 2004 and entitled “Complaint For Declaratory Judgment” (“SonoSite’s Complaint”). SonoSite’s Complaint contains allegations that claims of the ‘702 Patent are invalid and/or unenforceable (see paragraphs 22-29). SonoSite’s Complaint alleges that:

Each claim of the ‘702 Patent is invalid for failure to comply with the conditions and requirement for patentability set forth in Part II of Title 35 of the United States Code, including, *inter alia*, §§ 101, 102, 103, 112, and 132, particularly in view of the prior art, and the manner in which the ‘702 Patent was filed, prosecuted, and/or examined in the U.S. Patent Office.

(see paragraph 23 of Complaint).

The three pleadings submitted herewith were all filed by SonoSite after the entry of the Court’s ruling in the ‘021 Patent Litigation that SonoSite had infringed the asserted claims of the ‘021 Patent. Applicant regrets that in its post-infringement adjudication pleadings, SonoSite has

attacked and/or criticized not only Applicant but also, the “manner in which” the ‘021 and ‘702 Patents were “examined in the U.S. Patent Office” (see above quoted paragraphs). Applicant appreciates the careful and meticulous job performed by the Examiner in examining the claims of the ‘021 and ‘702 Patents.

Applicant is also aware that the statutory presumption of validity which all of these claims enjoy “is based in part on the expertise of patent examiners presumed to have done their jobs.” *Brooktree Corp. v. Advanced Micro Devices Inc.*, 24 U.S.P.Q. 2d. 1401, 1414 (Fed. Cir. 1992). The Federal Circuit has expressly recognized the relevance of the expertise of Patent Examiners to the issue of new matter, holding:

This presumption, which may be viewed as a presumption of administrative correctness, as applied to new matter determinations was discussed by our predecessor court which stated that “the fact that the Patent Office allows . . . an amendment without objection thereto as new matter . . . is entitled to an especially weighty presumption of correctness.”

Id.; (emphasis added). In its post-infringement adjudication pleadings, SonoSite contends that the Examiner twice erred by entering the same amendment during the prosecution of both the ‘021 and ‘702 Patents, which contained new matter in violation of 35 U.S.C. § 132. The same amendment which SonoSite contends the Examiner entered erroneously during the prosecution of both the ‘021 and ‘702 Patents is pending as a preliminary amendment in this application.

The documents submitted herewith are not prior art. While Applicant believes that he is not obligated under the Rules of the Patent Office or 35 U.S.C. § 101 *et seq.* to send the Patent Office pleadings filed by an adverse party in litigation, Applicant discloses the pleadings submitted herewith to make the Patent Office aware of the numerous affirmative defenses asserted under 35 U.S.C. §§ 101, 102, 103, 112, and 132 by an adjudicated infringer in litigation involving the ‘021 and ‘702 Patents.

By submitting these pleadings with this Supplemental IDS, Applicant is not (a) affirming any allegations of invalidity or unenforceability in these post-infringement adjudication pleadings, or (b) representing that these allegations of invalidity or unenforceability are well founded. Rather, Applicant submits these pleadings for the careful consideration of the Examiner in evaluating the patentability of the claims and the entry of any amendment filed during the prosecution of the above referenced application.

Respectfully submitted,

1/29/05

Date

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CERTIFICATE OF MAILING 37 CFR 1.8(a)

I hereby certify that this correspondence along with any referred to as attached or enclosed is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on January 29, 2005.

Richard T Redano

Richard T. Redano

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

243

Application Number	10/827,454
Filing Date	April 19, 2004
First Named Inventor	Redano
Art Unit	3736
Examiner Name	
Attorney Docket Number	REDA-110

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input checked="" type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Post Card
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name			
Signature	<i>Richard T Redano</i>		
Printed name	Richard T. Redano		
Date	1/29/05	Reg. No.	

CERTIFICATE OF TRANSMISSION/MAILING

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Typed or printed name	Richard T. Redano	Date	1/24/05

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Substitute for form 1449/PTO

Complete if Known

Application Number	10/827,454
Filing Date	April 19, 2004
First Named Inventor	Redano
Art Unit	3736
Examiner Name	
Sheet 1 of 1	Attorney Docket Number REDA-110

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Use as many sheets as necessary)

NON PATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T ²
		RAINEY, Memorandum and Order, Civil Action No. H-01-2484, U.S.D.C., S.D. Tx, Sept. 30, 2004, USA	
		KRIEGER, Original Answer and Counterclaims of Defendant SonoSite, Inc., Civil Action No. H-01-2484, U.S.D.C., S.D. Tx, November 22, 2004, USA	
		KRIEGER, Defendant's Request For Reconsideration Of The Court's Order Of September 30, 2004 On Infringement, Civil Action No. H-01-2484, U.S.D.C., S.D. Tx, Jan. 18, 2005, USA	
		KRIEGER, Complaint For Declaratory Judgment, Civil Action No. H-04-4801, U.S.D.C. S.D. Tx, December 21, 2004, USA	

Examiner Signature	Date Considered
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*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Applicant's unique citation designation number (optional). ² Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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